

**From:** andrea stinson [mailto:andistinson@yahoo.com]  
**Sent:** Tuesday, October 04, 2011 4:01 PM  
**To:** FS-comments-northern-helena  
**Cc:** Jon Tester  
**Subject:** Section 35 Lincoln Montana

To whom This comment may concern:

**My family is opposed to the Section 35 location proposed by the agencies submitting the study. Here are the environmental impacts overlooked by the authors:**

#### **MOVING THE MINE WASTE**

1. The agencies involved have not performed adequate investigation of alternative onsite storage or sights outside of the Blackfoot River water shed so the repository will not leach out into the watershed when the repository life cycle is anticipated. The public discovered this proposed site of Section 35 was selected after a settlement reached between the State and Simpson - the agencies made this deal with Stimson over four years ago to forgive a large legal debt (\$300,000) with no public comment on the exchange for a piece of property to store these Mike Horse mining complex tailings. There was no full disclosure of this intent. Section 35 is the last of four alternatives and represents the agencies last opportunity to make this exchange, the other three were eliminated which is evident because they were not included in the new 2007 Super Fund boundary as explained below. This back room negotiation is clearly not acceptable public meetings requirement for use of public funds entrusted by the State of Montana to protect the public from contaminated waste.
2. There was no vehicle washes discussed or designed on the current site and proposed site to eliminate hazardous contaminants from transportation vehicles. These are required in Superfund sites where hazardous wastes are being transported off-site, which is the case for the proposed site.
3. The agencies plan violates EPA regulations for the transportation of these hazardous wastes to ensure decontamination on each of the 60,000 trips required to transport this waste outside the contamination site to any repository.

#### **RELATIVE TO SECTION 35**

1. Falsified information is presented in the site selection of Section 35 because it is **NOT** significantly closer than Horsefly Creek as stated in the study.

2. The study Summary falsely states (page 10), **“There are no down-gradient residences within two miles” three residences are within two miles downstream on the Blackfoot River - Father Mac McInnis, Jack and Sandra McInnis and Louie and Trudy Bouma, all have homes within two miles.** Furthermore, additional falsified information included on **page 70: The site is located within a mile of five residences – all residences are located up gradient to the site” which is not accurate as there are three household down gradient as described above.**
3. The proposed Section 35 site defies all design standards for safe storage of hazardous materials by locating a million cubic yards of toxic mine tailings within 300 yards of the river’s banks and with the site’s hydrology characteristics, its active aquifer and its proximity to Nora Creek wetlands at the base of the site. The site contains a great deal of ground water so shallow that it was streaming out of some of DEQ’s monitoring wells in June and July of 2011 <http://www.hstb.net/thetestwellsonsection35.html> . The original site adequately demonstrated the safe distances once the substandard soils were removed and replaced with structural fills to build superior strata to store these tailings and placement of the substandard material temporary set aside during the construction phase. This option was not investigated as the agencies had been responding to their personal choice to move the material someplace else once the slope and soil conditions of 100 years of neglect for environmental standards were verified.
4. The site is surrounded by ten neighbors who adamantly oppose this plan due to the Inverse Condemnation of their property, the adverse affects of the repository when it has reached its designed longevity and the short-term hazards of toxic dust it will create, the noise, vibration, interference with their daily lives – see the following link: [http://en.wikipedia.org/wiki/Inverse\\_condemnation](http://en.wikipedia.org/wiki/Inverse_condemnation) .
5. The site demonstrates adverse impacts on the residents and tourism by its close proximity to HW 279 (Flesher Pass Highway) which is the main thoroughfare between Lincoln and Helena including work force commuters, consumers and medical transport, recreationists, and bicyclists who tour on this route regularly.

**SUPER FUND SITE & CERCLA** (Comprehensive Environmental Response, Compensation and Liability Act)

1. In 2007 the Forest Service unilaterally, without public comment and without notification to the property owners, expanded the original Super Fund boundary to include all private property from near the top of the Continental Divide all the way to Alice Creek Road in a swath over two miles wide covering approximately 9000 acres. This was done to allow the agencies to use the CERCLA process to select the repository site and eliminate the property owner’s ability to object. Some property owners may still not be aware their land is now in a Super Fund site.

2. **The 2007 expansion of the Super Fund Area should be invalidated** - no contaminants from the 1975 Mike Horse Mine blow-out have contaminated areas above the high water marks of the Blackfoot River and none has traveled upstream or up a thousand foot 45 degree slope and a mile from the river as would be required by the new boundary.
  
3. The agencies had not granted the public a chance to comment on their site selection until the neighborhood and the Lincoln Community Council started questioning their tactics. Beth Ihle was quoted in the Helena Independent Record article last October that “the public process won’t involve comments .....Under CERCLA the government chooses the site and the public is allowed to comment on mitigation measures” (page 3 [http://www.hstb.net/images/Mike\\_Horse\\_IR\\_Article-Toxic\\_tailings.pdf.pdf](http://www.hstb.net/images/Mike_Horse_IR_Article-Toxic_tailings.pdf.pdf)) – now they say “we are committed to the public process”. That being said, the public comments must be counted and the proposed site rejected because it is not a suitable site originally requested by the public, nor a EPA compliant plan as it did not incorporate inclusion of the public comment on expanding the boundaries to justify the DEQ land acquisition for this misplaced site location. The agencies should be ashamed of themselves for this shortsightedness and malfeasance to procure a plan that does not meet the public’s needs.